**Section 145.5 Purpose and Definitions**

a) Purpose

*The purpose of* the *Act* and this Part *is to protect consumers who enter into agreements with debt settlement providers and to regulate debt settlement providers.* [225 ILCS 429/5]

b) Definitions

"Act" means the Debt Settlement Consumer Protection Act [225 ILCS 429].

"*Consumer*", "customer" or "debtor" *means any person who purchases or contracts for the purchase of debt settlement services.* [225 ILCS 429/10]

*"Debt settlement provider"* or "provider" *means any person or entity engaging in, or holding itself out as engaging in, the business of providing debt settlement service in exchange for any fee or compensation, or any person who solicits for or acts on behalf of any person or entity engaging in, or holding itself out as engaging in, the business of providing debt settlement service in exchange for any fee or compensation. "Debt settlement provider" does not include:*

*attorneys licensed, or otherwise authorized, to practice in Illinois who are engaged in the practice of law;*

*escrow agents, accountants, broker dealers in securities, or investment advisors in securities, when acting in the ordinary practice of their professions and through the entity used in the ordinary practice of their profession;*

*any bank, agent of a bank, operating subsidiary of a bank, affiliate of a bank, trust company, savings and loan association, savings bank, credit union, crop credit association, development credit corporation, industrial development corporation, title insurance company, title insurance agent, independent escrowee or insurance company operating or organized under the laws of a state or the United States, or any other person authorized to make loans under State law while acting in the ordinary practice of that business;*

*any person who performs credit services for his or her employer while receiving a regular salary or wage when the employer is not engaged in the business of offering or providing debt settlement service;*

*a collection agency licensed pursuant to the Collection Agency Act* [225 ILCS 425] *that is collecting a debt on its own behalf or on behalf of a third party; an organization that is described in 26 USC 501(c)(3) and subject to 26 USC 501(q) and exempt from tax under 26 USC 501(a) and governed by the Debt Management Service Act* [205 ILCS 665]*;*

*public officers while acting in their official capacities and persons acting under court order;*

*any person while performing services incidental to the dissolution, winding up, or liquidating of a partnership, corporation, or other business enterprise; or*

*persons licensed under the Real Estate License Act of 2000* [225 ILCS 454] *when acting in the ordinary practice of their profession and not holding themselves out as debt settlement providers.*  [225 ILCS 429/10]

*"Debt settlement services" means:*

*offering to provide advice or service, or acting as an intermediary between or on behalf of a consumer and one or more of a consumer's creditors,* when *the primary purpose of the advice, service, or action is to obtain a settlement, adjustment, or satisfaction of the consumer's unsecured debt to a creditor in an amount less than the full amount of the principal amount of the debt or in an amount less than the current outstanding balance of the debt; or*

*offering to provide services related to or providing services advising, encouraging, assisting, or counseling a consumer to accumulate funds for the primary purpose of proposing or obtaining or seeking to obtain a settlement, adjustment, or satisfaction of the consumer's unsecured debt to a creditor in an amount less than the full amount of the principal amount of the debt or in an amount less than the current outstanding balance of the debt.*

"*Debt settlement services" does not include:*

*the services of attorneys licensed, or otherwise authorized, to practice in Illinois who are engaged in the practice of law; or*

*debt management service as defined in the Debt Management Service Act*. [225 ILCS 429/10]

"Department" means the Department of Financial and Professional Regulation.

"Division" means the Department of Financial and Professional Regulation-Division of Financial Institutions.

"Provider fee" means the fee charged by the provider in return for debt settlement services. Provider fees generally consist of:

enrollment or set up fees paid by the consumer in connection with establishing a contract or other agreement related to the provision of debt settlement service; and/or

maintenance fees paid by the consumer on a periodic basis for contractually outlined debt settlement service.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.